



MORAY COUNCIL LOCAL REVIEW BODY

DECISION NOTICE

Decision by the Moray Local Review Body (MLRB)

- Request for Review reference: Case 103
 - Site address: Buthill Meadows, Wester Buthill, Roseisle, Elgin
 - Application for review by Mr Gavin Strathdee, c/o Strathdee Properties Ltd against the decision of an Appointed Officer of The Moray Council.
 - Planning Application 14/00152/APP to erect dwelling house with detached garage.
 - Unaccompanied site inspection carried out by the MLRB on 22 August 2014.
 - Date of decision notice: 11 September 2014
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Decision

The MLRB agreed to dismiss the request for review and uphold the original decision of the Appointed Officer to refuse the above noted application.

1. Preliminary

- 1.1 This Notice constitutes the formal decision of the MLRB as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for planning permission was considered by the MLRB at the meeting held on 28 August 2014.
- 1.3 The MLRB was attended by Councillors C. Tuke (Chair), G. Coull, F. Murdoch, J. Mackay and R. Shepherd.

2. Proposal

- 2.1 This is an application for planning permission to erect dwelling house with detached garage at Buthill Meadows, Wester Buthill, Roseisle, Elgin.

3. MLRB Consideration of Request for Review

- 3.1 There was submitted a 'Summary of Information' report setting out the reasons for refusal, together with copies of the Report of Handling, Notice of Review, Grounds for Review and supporting documents.
- 3.2 The Legal Adviser advised the MLRB that the case had previously been deferred due to a clerical error that required to be corrected and re-issued to interested parties for an opportunity to comment on the Notice of Review. He apologised for any inconvenience caused.
- 3.3 The Chair, referring to the Summary of Implications and reason (ii), stated that "further such development would be encouraged" was not a substantive issue and that each case should be judged on its own merits.
- 3.4 With regard to the unaccompanied site inspection carried out on 22 August 2014, the Planning Adviser advised that Members were shown the site where the proposed development would take place.
- 3.5 The Planning Adviser advised the MLRB that the application had been refused on the grounds that the proposal was contrary to Policies H8 (and Supplementary Guidance) and IMP1 of the Moray Local Plan 2008. She informed the MLRB that the Appointed Officer had advised that the site is in an area of open landscape and, as an addition to the existing consents and newly completed houses in the vicinity, would result in a detrimental impact on the rural characteristics of the landscape. She advised that the proposed development would also contribute to an urbanisation of the setting.
- 3.6 Referring to the Appellant's Grounds for Review, the Planning Adviser advised that the Appellant had stated that the proposal complies with Policies H8 and IMP1 as site design is of an adequate size and space to enhance the area without creating sense of overcrowding. They advised that the proposed development would be 38m from the nearest dwelling, which exceeded the spacing of the dwellings at the nearby Old Steading/Mid Buthill/Holme Steading development to the east of the proposed site.
- 3.7 For clarification purposes, the Chair, referring to the Report of Handling on page 3 and the further representations received to the Notice of Review that the lack of a tree plan was not considered a material issue due to the relatively limited scale of development proposed and the extent of existing forestry in the area as noted in the overservations by the Appointed Officer.
- 3.8 Councillor Mackay, having had the opportunity to visit the site and consider the Appellant's Grounds for Review, stated that he was of the opinion that the proposed development would contribute to a build up which would be detrimental to the rural character. He advised that Policy H8 sets a general presumption against more than 2 houses in one location, regardless of whether it is a sole application or not, and than any additional houses may be considered to contribute to a build-up which would be detrimental to the rural

character. Thereafter, he moved that the appeal be dismissed and the Appointed Officer's decision be upheld to refuse the application. This was seconded by Councillor Murdoch.

- 3.9 The Chair, for clarification purposes, stated that Policy H8 also states that where there are multiple houses - 3 or more - then they will be noted as departure but for 1 or 2 dwellings within or adjacent to an existing group of recently consented or constructed dwellings then it may be considered favourably, subject to compliance with Policies H8 and IMP1.
- 3.10 As an amendment, the Chair stated that he was of the opinion that the proposal complied with Policies H8 and IMP1 in that the development would not be adversely prominent, would be integrated into the existing woodland and was not in the proximity of articular or minor roads. Accordingly, he moved that the appeal be upheld and planning permission granted, subject to standard conditions. This was seconded by Councillor Coull.
- 3.11 On a division, there voted:-
- For the Motion (3): Councillors Mackay, Murdoch and Shepherd.
- For the Amendment (2): Councillors Tuke and Coull.
- Abstentions (0)
- 3.12 According, the amendment became the finding of the meeting and the MLRB agreed to dismiss the appeal and uphold the Appointed Officer's decision to refuse planning permission.

Paul Nevin
Senior Solicitor (Property and Contracts)
Legal Adviser to the MLRB

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)

Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008

1. If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part V of the Town and Country Planning (Scotland) Act 1997.